

ID NO: 2, and the antibodies of Group III (claims 19-20) are also defined by reference to the polypeptide of SEQ ID NO: 2. Moreover, the nucleic acids defined by Group I include those which encode polypeptides defined by reference to SEQ ID NO: 2. As the claims of Groups I, II and III have a disclosed relationship to each other, they do not represent independent inventions. Likewise, the methods recited in the claims of Groups VII-XVI include reference to either to the nucleic acids, polypeptides or antibodies of Groups I, II and III. These method claims therefore do not represent independent inventions.

The product claims of Groups I, II, III also do not represent distinct inventions. Inventions are “distinct” if (A) the claimed inventions do not overlap in scope (*i.e.*, are mutually exclusive; (B) the claimed inventions are not obvious variants; *and* (C) the claimed inventions are either not capable of being used together or have materially different design, mode of operation, function or effect. MPEP 806.05(j). Without commenting on (B) and (C) above, the Applicants submit that the products defined by Groups I, II and III are not mutually exclusive because each includes reference to SEQ ID NO: 2 and can be defined by this sequence. Groups I, II and III are therefore not distinct, and should be examined together. Likewise, the method claims of Groups VII-XVI include reference to either to the nucleic acids, polypeptides or antibodies of Groups I, II and III. These method claims therefore also do not represent distinct inventions.

Even assuming, for the sake of argument, that the inventions of Groups I, II and III and VII-XVI are distinct, certain of the pending claims can be considered as linking claims between these groups. See, for example, claims 2, 12 and 15 which link Group I, II and III. If any of these claims are found allowable, then Groups I, II and III should be rejoined. Likewise, the method claims of Groups VII-XVI should be rejoined, as these methods use the Group I, II or III products. Also, searching for the subject matter of Groups I, II and III and VII-XVI would not pose a serious burden to the Examiner, as the subject matter of each claim group includes reference to SEQ ID NO: 2. The Examiner can readily find whether there exist any nucleic acids, polypeptides or antibodies which encode, include or are made from SEQ ID NO: 2. Thus, the claims of these groups can be searched together regardless of whether they are considered distinct.

In conclusion, the claims of Groups I, II and III each include reference to SEQ ID NO: 2, and therefore represent products which are not neither independent nor distinct. The method claims of Groups VII-XVI use the products recited in Groups I, II and III, and therefore also do not represent independent or distinct inventions. Moreover, a search of the subject matter in Groups I, II and III and VII-XVI would not represent a serious burden to the Examiner, as each includes reference to SEQ ID NO: 2 and can be defined by this sequence. Finally, claims 2, 12 and 15 can be regarded as linking claims which, if allowed, would require the rejoining of Groups I, II and III and the method claims of Groups VII-XVI, which use the Group I, II or III products. The Applicants respectfully request that at least Groups I, II and III and VII-XVI be rejoined for examination on the merits.

Respectfully submitted,

A handwritten signature in black ink, reading "Paul Carango". The signature is fluid and cursive, with the first name "Paul" and last name "Carango" clearly distinguishable.

Paul Carango
Reg. No. 42,386
Attorney for Applicants

PC/sh
(215) 656-3320